

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 90063-001

v

Blue Cross Blue Shield of Michigan  
Respondent

\_\_\_\_\_/

**Issued and entered  
this 25th day of July 2008  
by Ken Ross  
Commissioner**

**ORDER**

**I  
PROCEDURAL BACKGROUND**

On May 28, 2008, XXXXX ("Petitioner") filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on June 4, 2008.

The Petitioner is enrolled for health coverage with Blue Cross Blue Shield of Michigan ("BCBSM") through the Michigan Education Special Services Association ("MESSA"). The Commissioner notified BCBSM of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on June 14, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the MESSA *Choices II Group Health Care Benefit Certificate* ("the certificate"). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

## **II FACTUAL BACKGROUND**

On September 27, 2007, the Petitioner received a driving assessment evaluation. These services were provided by XXXXX Hospital. BCBSM denied payment for these services. The total charges in question are \$306.00.

The Petitioner appealed BCBSM's decision to deny coverage for his driving assessment. BCBSM held a managerial-level conference on April 7, 2008, and issued a final adverse determination dated April 19, 2008.

## **III ISSUE**

Is BCBSM required to cover the Petitioner's driving assessment evaluation?

## **IV ANALYSIS**

### **Petitioner's Argument**

The Petitioner has been diagnosed with Guillain-Barre syndrome. After being discharged from XXXXX Hospital, one of his restrictions was that he could not drive. His doctor required a driver evaluation because he was concerned about the Petitioner's ability with reaction time. Therefore, the Petitioner believes that the driver's evaluation was medically necessary and a covered benefit.

BCBSM denied payment for the driver's evaluation under the exclusion for educational care and cognitive therapy. However, the Petitioner argues that this care was billed under occupational therapy. This supports the testing that was conducted and described on the Occupational Therapy Clinical Community Mobility Evaluation Report. These were all tests to measure the Petitioner's physical deficiencies at that time. This service was an extension of the many other physical and occupational therapy services he was undergoing.

The Petitioner believes that his driving evaluation was medically necessary and a part of his

occupational therapy. Therefore, it should be a covered benefit.

### BCBSM's Argument

BCBSM indicates that, under the terms of the certificate, benefits for therapy services include physical therapy, speech therapy, and occupational therapy when performed as part of physical therapy. Occupational therapy is defined in the certificate as a rehabilitation service to develop, improve or restore the performance of necessary neuro-musculoskeletal functions affected by illness or injury or following surgery. Also, the certificate's Limitations and Exclusions provision (Section 10) excludes from coverage educational care and cognitive therapy.

The Petitioner indicated that his doctor scheduled the necessary driver's evaluation because of his medical condition. However, this service simply is not therapy and is not a covered benefit under the terms of the certificate. Thus the claim was denied appropriately.

### Commissioner's Review

The Commissioner is sympathetic to the Petitioner's situation. As a result of a medical condition, his doctor ordered a driver's evaluation to determine if his condition made it unsafe for him to drive. The Petitioner indicates that his driver's evaluation was filed under occupational therapy by the provider. Page 7 of the certificate defines occupational therapy as:

A rehabilitative service that uses specific activities and methods. The therapist is responsible for involving the patient in specific therapeutic tasks and activities to:

- develop, improve, or restore the performance of necessary neuro-musculoskeletal functions affected by an illness or injury or following surgery
- help the patient learn to apply the newly restored or improved function to meet the demands of daily living
- design and use splints, orthoses (such as universal cuffs and braces) and adaptive devices (such as door openers, bath stools, large handle eating utensils, lap trays and raised toilet seats)

The Petitioner's driver evaluation was a series of tests to determine if it was safe for him to drive a motor vehicle. It was not therapy to improve or restore functions. Therefore, it does not

meet the definition of occupational therapy or any other type of therapy listed in the certificate.

Therefore, the Commissioner concludes that the Petitioner's driver evaluation is not a covered benefit in the certificate.

**V  
ORDER**

BCBSM's final adverse determination of April 19, 2008 is upheld. BCBSM is not required to cover the Petitioner's September 27, 2007 driver's evaluation.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.